

In re Appln. of Peter Bongartz et al.
Serial No. 10/680,923
Reply To Final Office Action Of May 26, 2005

REMARKS

This Amendment is responsive to the Final Office Action mailed May 26, 2005 wherein the Examiner (a) rejects Claim 12 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,525,109 to Hofmann et al., (b) rejects Claims 12 and 13 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,317,602 to Orain, (c) objects to Claim 14 as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and (d) states that Claims 15 and 16 are allowed. By this response, Applicants have (a) amended Claims 12 and 13 and (b) amended Claim 14 to place it in independent form and respectfully submit that each of the pending Claims 12-16 are in a condition for allowance.

The Examiner rejected Claim 12 under 35 U.S.C. § 102(b) as being anticipated by Hofmann et al. Applicants respectfully traverse this rejection as conceivably applied to Claim 12.

Applicants respectfully submit that Claim 12 is not anticipated by Hofmann because it does not disclose exactly what is claimed. It is well settled that anticipation can only be established by a single prior art reference which identically discloses each and every element of the claimed invention. Anticipation is not shown, even if the differences between the claims and the prior art reference is insubstantial. Instead, the cited reference must show exactly what is claimed. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); Structured Prod. Co. v. Park Rubber Co., 749 F.2d 707, 233 U.S.P.Q. 1264 (Fed. Cir. 1984). Hofmann is directed to a tripod joint with a roller securing ring. As shown in Figure 3 and described in

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column 4, lines 38-46, the roller assembly includes a securing ring 8 having a gap 7 required for assembly purposes that extends at an angle relative to a radial ray C through the roller axis. Hofmann further states that the width B of the gap should be smaller than / equal to 0.6 times the diameter D of a bearing needled, whereas for functional reasons, the width C of the securing ring 8 is greater than the diameter of the bearing needle.

Applicants respectfully submit that Hofmann does not show a fracture area that is fractured as the retaining ring is secured in the retaining groove. Therefore, Hofmann does not disclose each and every element of the invention as claimed in Claim 12 as required to show anticipation. Furthermore, to further define the invention, Applicants have amended Claim 12 to read a fracture area for permitting said retaining ring to be altered from an unbroken ring prior to insertion into said retaining groove to an open ring after said retaining ring is secured within said retaining groove and after said fracture area is fractured as said retaining ring is secured in said retaining groove. Hofmann does not show a fracture area that is fractured as said retaining ring is secured in said retaining groove, much less a fracture area for permitting said retaining ring to be altered from an unbroken ring prior to insertion into said retaining groove to an open ring after said retaining ring is secured within said retaining groove. Therefore, Applicants submit Hofmann does not anticipate Claim 12.

The Examiner rejected Claims 12 and 13 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,317,602 to Orain. Applicants respectfully traverse this rejection as conceivably applied to Claims 12 and 13.

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Orain is directed to a journal which is part of a tripod, with a roller mounted thereon and needles therebetween. The assembly is completed by a split ring 8 received in a groove. Orain does not disclose a retaining ring having a fracture area that is fractured when the retaining ring is secured within the retaining groove. Furthermore, Orain does not disclose a fracture area for permitting said retaining ring to be altered from an unbroken ring prior to insertion in said retaining groove to an open ring after said retaining ring is secured within said retaining groove. Therefore, Applicants submit that Orain does not anticipate Claim 12.

In further regards to dependent Claim 13, the split ring as shown in Orain does not include a first leg and a second leg. Therefore, Orain does not disclose each and every element of Claim 13. Furthermore, Orain does not disclose a first notch defined by one of said first and second legs. Orain also does not disclose a fracture area extending from said first notch towards one of said outer surface on said second leg and said inner surface on said first leg. Therefore, Applicants respectfully submit that Orain does not show the subject matter of amended Claim 13. Applicants respectfully request the withdrawal of the rejections to Claims 12 and 13 on the basis of Orain.

Applicants thank the Examiner for the statement that Claim 14 is allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have rewritten dependent Claim 14 into independent form and now respectfully submit that Claim 14 is in a condition for allowance.

Applicants thank the Examiner for the statements that Claims 15 and 16 are allowed.

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In view of the above remarks and the revised claims, Applicants submit that each of the pending claims define an invention that is patentable over the prior art. If the Examiner believes that personal communication will expedite prosecution of this application, he is invited to telephone the undersigned at (248) 433-7231. Prompt and favorable consideration of this amendment is respectfully requested.

Respectfully submitted,

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CAP/gmp
Enclosures

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